

REMARKS

Receipt of the office action mailed August 3, 2006 is acknowledged. Claims 1-15 are pending in the application. Claims 8-13 have been objected to for depending from a rejected base claim. Claims 1 and 2 have been rejected as anticipated by the Ouelette reference, while claims 1-7 and 14-15 have been rejected as obvious over Sturdivant in view of Sanders. In keeping with the foregoing amendments and the following argument, reconsideration and allowance is respectfully requested.

In response to the objection to claims 8-13, applicant has rewritten claim 8 in independent form to include all the limitations of claim 1. Accordingly, claim 8 is an allowable form. Similarly, claims 9-13 all depend from claim 8, are directly or through intervening claims. Accordingly, claims 9-13 are also in allowable form.

In response to the rejections, claim 1 has been amended to positively recite, in part, that the reservoir comprises an elongated tubular shape having a longitudinal axis and is formed of a material sufficient to retain the elongated tubular shape during use. Claim 1 also has been amended to positively recite that a rigid attaching means that protrudes from the first opening for attaching the selected strands of hair to the guide means.

By comparison, the Ouelette reference expressly teaches flexible prongs 12 to grasp the strands of hair. Specifically, the reference states that the prongs 12 "open to a diameter somewhat larger than the diameter of tube 9 . . ." Col. 4, lines 14-15. Plainly, if the prongs 12 were rigid as claimed by amended claim 1, the prongs 12 could not "open" at all. Put another way, if the prongs 12 were rigid, then the prongs 12 could not slide into the adjacent tube 9, because the opened prongs clearly extend beyond the diameter of the receiving tube 9. Moreover, if the prongs 12 are able to be compressed so as to fit into the tube 9, then plainly the prongs 12 cannot possibly be rigid as presently claimed. Accordingly, claim 1 defines over the Ouelette reference.

There would be no way to modify the prongs 12 of the Ouelette reference without destroying the express teachings of the reference. Specifically, if the prongs were made rigid, then the prongs 12 could no longer "open to a diameter somewhat larger than the diameter of tube 9." Such a modification to rigid prongs clearly would destroy the express teachings of the reference. Moreover, if the prongs 12 were made larger than the tube and yet rigid, then the prongs 12 would be incapable of sliding into the receiving tube 9. Altering the reference

such that this would be the case would alter the principle of operation of the reference and render the reference inoperable. Thus, there can be no proper *prima facie* case of obviousness based even in part on the Ouelette reference.

As outlined above, amended claim 1 positively recites, in part, that the reservoir comprises an elongated tubular shape having a longitudinal axis and is formed of a material sufficient to retain the elongated tubular shape during use.

By comparison, even a cursory review of Sturdivant shows that the pocket member 11 must be formed of the material that allows the pocket member 11 to be rolled up from the flat or straight configuration of Figure 7 to the rolled configuration as shown in each of Figures 1 and 8. Accordingly, Sturdivant cannot possibly support a proper *prima facie* case of obviousness. Sanders adds nothing of relevance to relevant claim limitation of claim 1. Moreover, there would be no suggestion to alter Sturdivant to reach the claimed invention, as any such modification would destroy the express teachings of the reference requiring a roll up configuration. Accordingly, the rejection is overcome, and claim 1 is in allowable form.

Claims 3-7 and 14-15 all depend from claim 1, either directly or through intervening claims. Accordingly, claims 3-7 and 14-15 also are in allowable form.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Dated: November 3, 2006

Respectfully submitted,

By 

David C. Read

Registration No. 39,811

MARSHALL, GERSTEIN & BORUN LLP

233 S. Wacker Drive, Suite 6300

Sears Tower

Chicago, Illinois 60606-6357

(312) 474-6300

Attorney for Applicant